Statement-III

Backward Regions Grant Fund programme guidelines

Chapter 1:

1.10 Transition from Rashtriya Sama Vikas Yojana to the BRGF, including start-up modalities for 2006-07:

The transition path for the smooth change over from the existing RSVY to BRGF will be as follows:-

(a) All 147 RSVY districts will be released funds when they meet the required stipulations under the schemes, such as submission of utilization certificates till the plans approved under RSVY (plus the existing monitoring fee), have been completed to the extend approved.

(b) Non-RSVY BRGF districts will begin the process of district plan preparation in 2006-07, in accordance with these guidelines. Those non-RSVY-BRGF Districts, which have consolidated their draft development plan for the district through DPCs in 2006-07, will receive their entire annual allocation for 2006-07, so that they can immediately commence implementation of their plans.

(c) During 2006-07, an initial tranche of Rs. 10 crore each will be released to each non RSVY-BRGF district, where DPCs have been set up and a district plan has been prepared, consolidating together a few important schemes in respect of which participatory plans have been prepared. States that are in the process of setting up District Planning Committees, would be eligible to receive funds in accordance with the provisions of this sub-clause, if DPCs are set up by February 15, 2007, in accordance with Article 243ZD of the Constitution.

(d) Funds for capacity building (as described in Para 1.6(a) earmarked for 2006-07 may be released during 2006-07 to all States in accordance with these guidelines, without the pre-condition that District Planning Committees shall be constituted.

Task Force recommendations

342. SHRIMATI N.P. DURGA: Will the Minister of PANCHAYATI RAJ be pleased to state:

(a) whether it is a fact that a Task Force on Jurisprudence has been

constituted by his Ministry under the Chairmanship of Smt. V.S. Rama Devi, former Governor;

(b) if so, the recommendations made by the Task Force on elections, non-confidence motion, disqualification, power of Panchayats; and

(c) what action his Ministry has taken on the recommendations of the Task Force?

THE MINISTER OF PANCHAYATI RAJ (SHRI MANI SHANKAR AIYAR): (a) to (c) Yes Sir, a summary of their recommendations is attached at Statement-A (*See* below). The report has made recommendations on elections, no confidence motions, disqualification and the power of panchayats. The report is under examination in the Ministry.

Statement-A

Chapter 8

Recommendations and suggestions

8.1 Elections

- Panchayat elections are very contentious. Regularising them in a five yearly period will help avoid the judicial ill will.
- A uniform procedural pattern throughout the country, with similar officials having similar power with regard to the conduct of the elections.
- The powers of SEC are sacrosanct and the state governments should not tinker with their powers, lest such tinkering violates the constitutional mandate.
- The Returning Officers should be aware of their powers and responsibilities. Since a large number of cases pertain to recounting, countennanding etc., the returning officers should know where to interfere and where to ask for help from the SEC.
- The election tribunal's powers should be as close to that of a 'court' under the CPC as possible. This will prevent litigation regarding the jurisdiction of the tribunal, which are quite unnecessary.
- Now it is well settled that Art. 243(O) cannot oust the writ jurisdiction of the HC. However, once the election process starts, the High Courts

will be too cautious to interfere. This is evident from the stay given by the Division Bench of the A.P. High Court on the Single Bench decision, on the grounds that election process has already started.

- For deciding quorum, if the total elected members are being considered, then the State legislature should make it clear how the majority is to be calculated. This means that they should put down precisely in the statute/rules whether only the valid votes would be considered or otherwise.
- As far as reservations to Chief Functionary's post are concerned we tend to go with the Kerala High Court view, to the effect that the office of the president of a gram panchayat can be reserved for Women belonging to SC/ST, as it is perfectly within the constitutional mandate and not with the decision of the Calcutta High Court.
- Though the electoral rolls prepared by the Election Commission of India for general elections may be adopted, but updating the same for panchayat elections shall be the sole responsibility of the SEC. It constitutes the backbone of any democratic process and has to be carefully done. In many parts of rural India, where people are unaware of the need to get their names included in the voters list, it is imperative that traditional methods like 'Tom-Toming' be employed. Also, they may take the assistance of social organizations to make the people aware of their duty to get themselves enrolled.

8.2 *Suspension/removal*

- Since both suspension and removal lead to temporary or permanent displacement of an elected functionary, it should have more stringent criteria and these criteria have to be strictly followed.
- On a trial basis, Panchayats may be given the power to do both these by a resolution. The majority required and other procedural stipulations for these resolutions may be different from that of a no-confidence motion, to the extent of avoiding confusion. If required, it could be provided in the statute that the collector or similar official may suspend/remove a functionary, but only after a resolution to the effect has been passed by the panchayat. This would ensure that the process remain participatory without excessive intervention by executive authorities.

- The efforts made by some States like Orissa to completely take away a collector's power to suspend may be closely monitored and adopted if it succeeds.

8.3 *No-confidence motion*

- Specific provisions have to be given for removal and no-confidence motion. Both should not be bundled up.
- The notice for the motion may ideally be given to the Chief Functionary or his deputy. If he does not call the meeting within a specified period, then the members must themselves be able to call the meeting. The quorum for such a meeting may be '1/3rd of the total elected members' or a near about figure. There should be a provision where the Collector or any other official should be intimated about the meeting.
- In the alternative, the Assam model may be resorted to if the State Governments find it more conducive. The Assam model provides for a hierarchical panchayat supervision pattern. Whatever mode is employed, the executive's hold over panchayat resolutions and motions have to be reduced.
- A revision/appeal provision may be included. The only other remedy would be to file a writ petition.
- Sometimes it is necessary to make a procedural provision mandatory so as to ensure effective functioning of the system. In such cases, it is suggested that a consequence be prescribed for the violation of the provision. So long as this consequence is prescribed, the court would construe the provision to be mandatory. Else there is always a possibility of the court overlooking a non-compliance with procedure.
- A gap of 6 months should be the maximum statutorily stipulated period for the presentation of a fresh no-confidence motion, after the rejection of the first motion.

8.4 *Disqualification*

- Disqualification for non attendance of meetings—it has to be provided in the Panchayat statute that the 3 consecutive meetings should be sufficiently spaced out to entail disqualification for non-attendance. The spacing may also be clearly indicated.

- For the two-child norms, States which have a provision to the effect should also clarify the position regarding the birth of twins etc. to avoid any conflicting decisions on the issue.
- The disqualification for violation of party whip is totally antithetical to the concept of Panchayati Raj. It was believed that the panchayats would not suffer from party based politics, though party politics has become institutionalized at the panchayat level. We strongly recommend that panchayat elections at all the three tiers should not be held on party basis. This would automatically take out the need for whip and defection provisions from the statutes. Non-party elections would be conducive to stability and development in the panchayat framework. Further, it would also avoid the rift between the State Government and the panchayat administrations especially if different parties are in power.

8.5 *Miscellaneous*

8.5.1 *Notification of villages/delimitation of constituencies*

- These should be done, as far as possible. During the tenure of a panchayat, but way before elections are notified. This would help to avoid accusations of gerrymandering.
- These should be applicable only from the term of the next panchayat.
- Though the State Government has the final word, it is advisable that the people of the panchayat be given the opportunity to give in their views on the issue. This will give the whole process greater transparency and popular support.
- The power to delimit should be vested in the SEC.

8.5.2 *Power of panchayats*

- Panchayats should be given greater autonomy and there should a minimum interference by executive authorities.
- The resolutions passed by the panchayats should be made non-reversible by executive authorities.
- An efficient social auditing mechanism will help to make the panchayats more accountable to the people. This will also make the State Government a lot more relaxed while devolving funds and functions to the panchayats.

- Parallel bodies like Village/Rural Development Committees etc. should be abolished and every development work should be undertaken by and through panchayats.
- All the welfare projects should be executed through panchayats.

National Commission to deal with corruption

†343 SHRI PYARELAL KHANDELWAL: Will the PRIME MINISTER be pleased to state:

(a) whether it is a fact that Government are considering to constitute National Commission to deal with the problem of corruption;

(b) whether it is also a fact that even after the publication of news in the newspapers regarding corruption in different Ministries, the anti-corruption agencies/intelligence department do not take any cognizance of it;

(c) if not, the arrangements made to deal with the above mentioned situation; and

(d) the reasons for not taking cognizance by the above mentioned agencies of the news of rampant corruption in the privilege quota of the Human Resource Development Minister?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI SURESH PACHOURI): (a) No, Sir.

(b) Whenever any news-item regarding any act of misconduct or corruption on the part of the Government officials covered under the Central Vigilance Commission's jurisdiction come to its notice, the Commission takes *suo-moto*, due cognizance of it and recommends appropriate action. The Commission in exercise of powers under section 8(1) (d) and Section 11 of the Central Vigilance Commission Act, 2003 also gets the issues involved investigated if the need arises. If any Department/Ministry makes a specific reference to the CBI for investigation/enquiry into any matter reported in media and the same reveals *prima facie* cognizable offence, the same is enquired/investigated into by the CBI.

(c) The question does not arise.

†Original notice of the question was received in Hindi.